

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.1146 of 2007
RAM AKWAL SINGH & ORS
Versus
SHAILENDRA KUMAR SINGH & ANR

3 **24.9.2008** Heard learned counsel for the petitioners and learned
counsel for the State.

A supplementary affidavit has been filed on behalf of
the petitioners.

It appears that the petitioners have been convicted
under section 323 IPC and have been given benefit of section 4 of
Probation of Offenders Act. Against the said conviction, the
petitioners have preferred the present revision application before this
Court.

It has been submitted that the present revision
application is maintainable in view of sections 360, 376 and 401(5)
Cr.P.C.

Section 360 Cr.P.C. starts with the heading Order to
release on probation of good conduct or after admonition. Then
section 376 Cr.P.C. provides no appeal in petty cases. Section 401
speaks about the High Court's powers of revision.

Sub-section (3) of section 374 Cr.P.C. provides for
appeal to the court of session from conviction by Assistant Sessions
Judge, Metropolitan Magistrate and all other Magistrates
irrespective of the class. According to which an appeal from the
Magistrate will lie to that Sessions Judge who has territorial

jurisdiction over the particular case.

Admittedly in the present case, petitioners have been convicted under section 323 IPC but no sentence has been awarded to them rather they have been provided the benefit of section 4 of Probation of Offenders Act. The conviction without sentence is conviction for the purpose of appeal.

Such being the position in law, this Cr. Revision is not maintainable. It is accordingly dismissed.

The petitioners may, if so advised, prefer appeal before the Sessions Judge.

(M. Saran, J)

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